

REMARKS

Claims 1, 10, 19, 22 and 32 have been amended. Claims 1-40 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

Objection to the Abstract:

The Abstract has been amended as requested by the Examiner. Thus, withdrawal of this objection is respectfully requested.

Section 112, Second Paragraph, Rejection:

The Office Action rejected claims 1-9, 22-31 and 32-40 under 35 U.S.C. § 112, second paragraph as indefinite. Applicants have accordingly amended independent claims 1, 10, 19, 22 and 32. The remaining claims 2-9, 11-18, 20-21, 23-31, and 33-40 depend upon the amended independent claims. Applicants respectfully submit that the Examiner's rejection under section 112 has been overcome.

Section 103(a) Rejections:

The Office Action rejected claims 1-4, 6-13, 15-25, 27-35 and 37-40 under 35 U.S.C. § 103(a) as being unpatentable over Zhang (U.S. Patent 6,473,820) and claims 5, 14, 26 and 36 as being unpatentable over Zhang (U.S. Patent 5,828,880) in view of Applicant Admitted Prior Art (AAPA). U.S. Patent 5,828,880 does not have Zhang listed as an inventor. Applicants assume that the Examiner meant to reject claims 5, 14, 26 and 36 as being unpatentable over Zhang (U.S. Patent 6,473,820) in view of Applicant Admitted Prior Art. The rejection of claims 5, 14, 26 and 36 as stated in the Office Action is improper since it is unclear what reference the Examiner is using to reject the claims.

In response to the Examiner's section 103(a) rejections, Applicants respectfully submit that the Zhang patent is not prior art to the present application. The American Inventors Protection Act of 1999 amended 35 U.S.C. § 103(c) to state that art which qualifies as prior art only under § 102(e), (f) or (g) is not available for rejections under § 103 if that art and the subject matter of the application under examination were owned by or subject to an obligation of assignment to the same assignee at the time the invention was made. This change to 35 U.S.C. § 103(c) is effective for any application filed on or after November 29, 1999. The present application is an application for patent filed after November 29, 1999. At the time the invention was made, the subject matter of present application and the Zhang patent were both owned by or subject to an obligation of assignment to the same assignee, Sun Microsystems Inc., as evidenced by the assignment for the present application recorded in the PTO at reel 012078, frame 0784, and the assignment for the Zhang patent recorded in the PTO at reel 010433, frame 0892. Therefore, the amendment to 35 U.S.C. § 103(c) made by the American Inventors Protection Act of 1999 applies to the present application and operates to exclude the Zhang patent as available prior art for rejections under 35 U.S.C. § 103.

In view of the above, Applicants respectfully submit that the section 103(a) rejections made by the Examiner are invalid, and that Claims 1-40 are in condition for allowance.

CONCLUSION

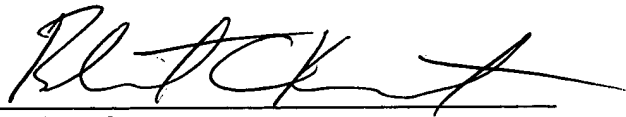
Applicants submit the application is in condition for allowance, and notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-67700/RCK.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Petition for Extension of Time
- ☐ Notice of Change of Address
- ☐ Fee Authorization Form authorizing a deposit account debit in the amount of \$
for fees ().
- ☐ Other:

Respectfully submitted,



Robert C. Kowert
Reg. No. 39,255
ATTORNEY FOR APPLICANT(S)

Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398
Phone: (512) 853-8850

Date: December 22, 2004